

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

JOHN T. BUCHANAN

Plaintiff,

Civil Action No.: 1:21CV6  
(Tazewell Co. Case No.: CL20-2129)

v.

SANTEK ENVIRONMENTAL OF  
VIRGINIA, LLC,

Defendant.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441, Santek Environmental of Virginia, LLC (“Santek”), by undersigned counsel, files this Notice of Removal of the above referenced civil action, based upon diversity jurisdiction under 28 U.S.C. § 1332.

**TIMELINESS OF REMOVAL**

1. Plaintiff, John T. Buchanan, filed this civil action on or about December 14, 2020, in the Circuit Court of Tazewell County, Virginia, where it was docketed as CL20-2129. *See* Complaint at 1, a copy of which is attached hereto as Exhibit A.

2. Defendant was served with the Complaint, via its registered agent for service, on December 29, 2020. *See* “Service of Process Summary Transmittal Form”, included as the cover page to Ex. A.

3. This Notice of Removal is filed timely, it being made within thirty (30) days from the date of service, December 29, 2020. *See* 28 U.S.C. § 1446(b); *see also PurAyr, LLC v. Phocatox Techs., LLC*, 263 F. Supp. 3d 632, 635 - 636 (W.D. Va. 2016) (providing “formal service under state law is necessary to start the removal clock”) (citing *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999)).

## **GROUND FOR REMOVAL**

### **A. Diversity Jurisdiction**

4. This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, which confers original jurisdiction of “all civil action where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States . . .”

#### **i. The Parties are diverse.**

5. Plaintiff is now and was at the commencement of this action a resident of and domiciled in Virginia, residing at 121 Edgewater Drive, Cedar Bluff, Virginia 24609. *See Ex. A* at ¶ 1.

6. The only defendant in this action, Santek, is a Tennessee limited liability company, which does business in Tazewell County, Virginia. *See Ex. A* at ¶ 2; Articles of Organization of Santek Environmental of Virginia, LLC, attached hereto as Exhibit B.

7. For limited liability companies, “citizenship for purposes of diversity jurisdiction turns not on its place of formation or principal place of business, but on the citizenship” of the limited liability company’s “members”. *Travelers Indem. Co. of Am. v. Portal Healthcare Sols., L.L.C.*, 644 F. App’x 245, 246 (4th Cir. 2016) (emphasis added).

8. Santek is now and was at the commencement of this action a citizen of Tennessee. The sole member of Santek Environmental of Virginia, LLC, is Santek Environmental, LLC, a Tennessee limited liability company. *See* Tennessee Department of State Filing Information for Santek Environmental, LLC, attached hereto as Exhibit C.

9. Further, the sole member of Santek Environmental, LLC, is Santek Waste Services, LLC, a Tennessee limited liability company. *See* Tennessee Department of State Filing Information for Santek Waste Services, LLC, attached hereto as Exhibit D.

10. Lastly, the sole member of Santek Waste Services, LLC, is Santek Holdings Inc., a Tennessee Corporation with its principal place of business in Cleveland, Tennessee. *See* Tennessee Department of State Filing Information for Santek Holdings, Inc., attached hereto as Exhibit E.

**ii. The amount in controversy exceeds the \$75,000.00 jurisdictional threshold.**

11. “In most cases, the ‘sum claimed by the plaintiff controls’ the amount in controversy determination.” *JTH Tax, Inc. v. Frashier*, 624 F.3d 635, 638 (4th Cir. 2010) (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288, 58 S.Ct. 586, 82 L.Ed. 845 (1938)). “If the plaintiff claims a sum sufficient to satisfy the statutory requirement, a federal court may dismiss only if ‘it is apparent, to a legal certainty, that the plaintiff cannot recover the amount claimed.’” *JTX Tax, Inc.* 624 F.3d at 368 (quoting *St. Paul Mercury Indem. Co.*, 303 U.S. at 289).

12. Plaintiff alleges that he suffered severe bodily harm and injuries requiring significant medical treatment, pain and suffering, and ongoing disability from an alleged accident that occurred at a waste transfer facility operated by Defendant. *See* Ex. A at ¶¶ 5 – 10.

13. In relation to these alleged injuries, Plaintiff, in this action, seeks various categorical damages, including: (a) “medical expenses and pain and suffering in the amount of two hundred fifty thousand dollars,” (b) “punitive damages in the statutory amount of three hundred thousand dollars,” and (c) reasonable attorney’s fees.<sup>1</sup> *See* Ex. A at pg. 4.

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<sup>1</sup> *See Francis v. Allstate Ins. Co.*, 709 F.3d 362, 368 (4th Cir. 2013) (finding that “potential attorney’s fees should be considered in the amount-in-controversy determination” to satisfy diversity jurisdiction).

14. Accordingly, Plaintiff's allegations and attendant prayer for damages satisfy the amount-in-controversy requirement of 28 U.S.C. § 1332.

**FILING AND SERVICE OF NOTICE**

15. Copies of all process, pleadings, and orders filed in the State Court Action, including the Notice of Filing of Notice of Removal, are attached collectively as Exhibit F in accordance with 28 U.S.C. § 1446(a).

16. A copy of this Notice of Removal is also being served on counsel of record for Plaintiff, as reflected in the attached Certificate of Service.

WHEREFORE, this action and all papers herein should be removed from the state court to this court.

SANTEK ENVIRONMENTAL OF VIRGINIA, LLC

By Counsel

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By /s/ Danielle Stone  
Danielle Stone

**CERTIFICATE OF SERVICE**

I hereby certify that on 22nd day of January, 2021, I electronically filed the foregoing ***Notice of Removal*** with the Clerk of the Court using the CM/ECF system and that I forwarded the same to the following via e-mail and U.S. Mail:

Bradley C. Ratliff  
The Ratliff Law Firm  
P.O. Box 33  
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/s/ Danielle Stone  
Danielle Stone